IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK THOMAS,	)	
	)	Civil Action
Petitioner	)	No. 2003-CV-06273
	)	
vs.	)	
	)	
FRANK TENNIS,	)	
THE DISTRICT ATTORNEY OF THE	)	
COUNTY OF PHILADELPHIA and	)	
THE ATTORNEY GENERAL OF THE	)	
STATE OF PENNSYLVANIA,	)	
	)	
Respondents	)	

O R D E R

NOW, this 22nd day of March, 2009, upon consideration
of the pro se petition for writ of habeas corpus, which petition
was filed November 17, 2003; upon consideration of the Response
to Petition for Writ of Habeas Corpus, which response was filed
January 31, 2005; upon consideration of the Report and
Recommendation of United States Magistrate Judge Arnold C.
Rapoport filed April 29, 2005; upon consideration of the
Memorandum and Order of Magistrate Judge Rapoport filed
September 15, 2005, which Memorandum and Order amended the
April 29, 2005 Report and Recommendation; upon consideration of
petitioner's Amended Objections, which objections were filed
July 12, 2007; upon consideration of petitioner's Supplement to
the Amended Objections filed July 30, 2007; upon consideration of
the Response to Petitioner's Amended Objections and Supplemental
Amended Objections to the Magistrate Judge's Report and
Recommendation, which response was filed by respondents on

August 3, 2007; upon consideration of the 'Reply' to Respondents'

Response to Petitioner's Amended & Supplemental Amended

Objections to the Magistrate Judge's Report and Recommendation,

which reply was filed by pro se petitioner on July 15, 2008; upon

consideration of the Sur-reply to Reply to Respondents' Response

to Petitioner's Amended Objections and Supplemental Amended

Objections to the Magistrate Judge's Report and Recommendation,

which sur-reply was filed July 17, 2008; it appearing that

petitioner's objections to Magistrate Judge Rapoport's Report and

Recommendation are either a restatement of the issues raised in

his underlying petition for habeas corpus relief, or are an

attempt to untimely amend his petition,[1] and are without merit;

it further appearing after de novo review of this matter that

Magistrate Judge Rapoport's Report and Recommendation filed

April 29, 2005, as amended by his September 15, 2005 Memorandum

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[1]   In his Amended Objections and Supplement to the Amended
Objections, petitioner attempts to add additional claims not previously raised
in his pro se petition for writ of habeas corpus filed November 17, 2003 and
to add additional facts not contained in the original petition to subvert the
conclusions of Magistrate Judge Rapoport in his Report and Recommendation.

    In this regard, I agree with the arguments contained in the
Response to Petitioner's Amended Objections and Supplemental Amended
Objections to the Magistrate Judge's Report and Recommendation filed August 3,
2007. Specifically, I conclude that the one-year period of limitations to
file a habeas corpus petition under the Antiterrorism and Effective Death
Penalty Act (28 U.S.C. § 2244(d)) expired on January 11, 2004. Petitioner's
attempts to add additional claims (giving petitioner full benefit of the
prisoner mailbox rule) were not filed until July 4, 2007 (Amended Objections)
and July 7, 2007 (Supplement to the Amended Objections).

    Thus, I conclude that any additional claims contained in either
Amended Objections and Supplement to the Amended Objections are untimely by
over three years.

and Order, correctly determined the legal and factual issues

presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Rapoport's Report

and Recommendation, as amended by the September 15, 2005

Memorandum and Order, is approved and adopted.

IT IS FURTHER ORDERED that petitioner's Amended

Objections and Supplement to Amended Objections to Magistrate

Judge Rapoport's Report and Recommendation are both overruled.[2]

IT IS FURTHER ORDERED that the pro se petition for

habeas corpus relief is denied without a hearing.

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[2]   When objections are filed to a magistrate judge's report and
recommendation, I am required to make a de novo determination of those
portions of the report, findings or recommendations made by the magistrate
judge to which there are objections. 28 U.S.C. § 636(b)(1); Rule 72.1(IV)(b)
of the Rules of Civil Procedure for the United States District Court for the
Eastern District of Pennsylvania. Furthermore, district judges have wide
latitude regarding how they treat recommendations of the magistrate judge.
See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424
(1980). Indeed, by providing for a de novo determination, rather than a de
novo hearing, Congress intended to permit a district judge, in the exercise of
the court's sound discretion, the option of placing whatever reliance the
court chooses to place on the magistrate judge's proposed findings and
conclusions. I may accept, reject or modify, in whole or in part any of the
findings or recommendations made by the magistrate judge. Raddatz, supra.

         As noted above, I conclude that petitioner's objections and
supplemental objections to Magistrate Judge Rapoport's Report and
Recommendation, as amended by the September 15, 2005 Memorandum and Order, are
either nothing more than a restatement of the underlying claims contained in
his petition for habeas corpus or an attempt to untimely amend his petition.
Moreover, upon review of the Report and Recommendation and the September 15,
2005 Memorandum and Order, together with de novo review of this matter, I
conclude that the Report and Recommendation, as amended, correctly determines
the legal and factual issues raised by petitioner.

         Accordingly, I approve and adopt Magistrate Judge Rapoport's
Report and Recommendation, as amended, and overrule petitioner's objections to
the Report and Recommendation.

IT IS FURTHER ORDERED that because petitioner fails to demonstrate either the denial of a constitutional right or that reasonable jurists would disagree with this court's disposition of his claims, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this matter closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge